

PATENT Customer No. 22,852 Attorney Docket No. 04853.0048-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Group Art Unit: 1652 Sigeyuki YOKOYAMA et al. Examiner: Kathleen Kerr Application No.: 09/697,186 Filed: October 27, 2000 RECEIVED A MUTANT KANAMYCIN For: NUCLEOTIDYLTRANSFERASE 2002 JUL 3 AND A METHOD OF SCREENING THERMOPHILIC BACTERIA TECH CENTER 1600/2900 **USING THE SAME**

Commissioner for Patents and Trademarks Washington, DC 20231

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

In a Restriction Requirement dated May 30, 2002, the Office required restriction under 35 U.S.C. § 121 between Group I (claims 1-3), Group II (claims 4-7), and Group III (claims 8-9). Applicants provisionally elect, with traverse, to prosecute Group I, claims 1-3.

Section 803 of the M.P.E.P. states that "[i]f the search and examination of the entire application can be made without serious burden, the examiner <u>must</u> examine it on the merits, even though it includes claims to independent or distinct inventions."

(M.P.E.P. § 803, emphasis added.) Applicants respectfully submit that this policy should apply to this application in order to avoid unnecessary delay to Applicants and duplicative examination by the Office.

FINNEGAN HENDERSON FARABOW GARRETT& DUNNER LLP

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Applicants submit that it would not be an undue burden on the Office to search

Applicants submit that it would not be an undue burden on the Office to search the art concerning Groups I, II, and III at one time. A search of the art concerning a group of protein mutants, such as the mutant kanamycin nucleotidyltransferases of Group I, would generally involve a search of the art concerning DNA sequences that encode them, such as those of Group II. Moreover, the subject matter of Groups I and III falls within a single classification (class 435). Finally, this application contains a limited number of claims. Thus, Applicants respectfully request that all of the subject matter of Groups I, II, and III be examined in the present application.

This response is submitted Monday, July 1, 2002, as June 30, 2002, falls on a Sunday. Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.

Dated: July 1, 2002

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